

REMARKS

Upon entry of the foregoing amendment, claims 1, 43-52, and 55-65 are pending in the application, with 1, 57-59, 61, and 63-65 being the independent claims. Claims 1, 61, 63, and 65 have been amended. Claims 61, 63, and 65 have been amended to correct an obvious typographical error and to insert punctuation. Support for the amendment to claim 1 is found in the specification at page 12, lines 29-31 and at page 13, line 31 to page 14, line 3. These changes are believed to introduce no new matter, and their entry is respectfully requested.

Applicants appreciate the indication in the Office Action mailed October 17, 2008 that claims 57-65 are allowable.

Based on the above amendment and the following remarks, Applicants respectfully request that the Examiner reconsider all outstanding objections and rejections and that they be withdrawn.

Rejections Under 35 U.S.C. § 112

(A) Claims 1, 43-52, 55, and 56 have been rejected under 35 U.S.C. § 112, first paragraph, as allegedly failing to comply with the written description requirement. (Office Action, page 2). Applicants respectfully traverse this rejection.

The Examiner alleges that the cited dose ranges are new matter as they are not supported by the specification. (Office Action, pages 3-4).

Applicants respectfully disagree. Claim 1 as amended recites “wherein the amount of enhancer effective to enhance the intracellular delivery is about 0.013 mM to 13 mM when said enhancer has a carbon chain length of from 9 to 14 carbon atoms and 0.12 mM to 120 mM when said enhancer has a carbon chain length of 8 carbon atoms.” The recited ranges are explicitly disclosed in the present specification at page 12, lines 29-31 and at page 13, line 31 to page 14, line 3. Thus, the present claims do not contain new matter.

It is respectfully requested that the rejection of claims 1, 43-52, 55, and 56 under 35 U.S.C. § 112 be withdrawn.

(B) Claims 1, 43–52, 55, and 56 have been rejected under 35 U.S.C. § 112, first paragraph, as allegedly failing to meet the enablement requirement. (Office Action, page 4). Applicants respectfully traverse this rejection.

The Examiner alleges that, to the extent that the claimed compositions and/or methods are not described in the instant disclosure, the claims are not enabled as a disclosure cannot teach one to make or use something that has not been described. (Office Action, page 4).

Applicants respectfully disagree. As discussed above, the claims as amended do not contain new matter and are adequately described. Thus, the claims are fully enabled by the specification.

It is respectfully requested that the rejection of claims 1, 43–52, 55, and 56 under 35 U.S.C. § 112 be withdrawn.

CONCLUSION

Applicants believe that the points and concerns raised by the Examiner in the Action have been addressed in full, it is respectfully submitted that this application is in condition for allowance, which action is earnestly solicited. Should the Examiner have any remaining concerns, it is respectfully requested that the Examiner contact the undersigned Attorney at (919) 854-1400 to expedite the prosecution of this application to allowance.

No fee is believed to be due with this response. However, the Commissioner is hereby authorized to charge any deficiency or credit any overpayment to Deposit Account No. 50-0220.

Respectfully submitted,

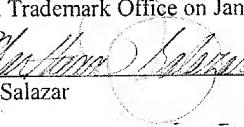


Robert A. Schwartzman, Ph.D.
Registration No.: 50,211

USPTO Customer No. 20792
Myers Bigel Sibley & Sajovec
Post Office Box 37428
Raleigh, North Carolina 27627
Telephone: 919/854-1400
Facsimile: 919/854-1401

CERTIFICATION OF TRANSMISSION

I hereby certify that this correspondence is being transmitted via the Office electronic filing system in accordance with § 1.6(a)(4) to the U.S. Patent and Trademark Office on January 21, 2009.

Signature: 
Marthenn Salazar